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10/054,290	11/13/2001	Leon Minassian	2248.001	5346
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LEVISOHN, BERGER & LANGSAM, LLP 805 THIRD AVENUE, 19TH FLOOR NEW YORK, NY 10022			EXAMINER HO, THOMAS Y	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/054,290

Applicant(s)

MINASSIAN, LEON

Examiner

Thomas Y Ho

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,5,7,9,12,18,23 and 25-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 7, 9, 12, 18, 23, 25-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 June 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Status of Claims*

Claims 1, 5, 7, 9, 12, 18, 23, and 25-33 are pending. Claims 2-4, 6, 8, 10-11, 13-17, 19-22, 24, and 34-40 have been withdrawn or cancelled.

### *Claim Objections*

**Claims 1 and 31 are objected to because of the following informalities:**

As to claim 1, the term "and/or" is unclear. Applicant could replace "said primary links and/or said connecting links" with --at least one of said primary links and said connecting links" or any other similar phrase.

As to claim 31, claim 11 has been cancelled, and claim 31 cannot depend from a cancelled claim. For purposes of examination, claim 31 will be considered as depending from claim 23.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 5, 9, 12, 18, 23, 26-27, and 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newman US3217514 in view of Ebara US5787731, and further in view of Mariano US2322461.**

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As to claim 1, Newman discloses, an article of jewelry (the limitation “for remembering the hour(s) for an event(s) in the course of a day” is intended use and holds little patentable weight; the purpose of the jewelry depends on the symbolic interpretation of the structure by a user and does not further define any structural elements) comprising: a set of primary links “11” which are provided with a set of sequential (the limitation “hour of the day” is purely functional and holds little patentable weight; the claimed structure is an indicator, and what the indicator is interpreted as by a user does not define structure) indicators “12”, and indicator for each link (the limitation “for visually indicating the hour of the day associated with the primary link” is purely functional and holds little patentable weight), a set of connecting links (every other link “11” is a primary link, and the links “11” in between are connecting links), said connecting links being spaced between said primary links and together with said primary links forming a bracelet, said primary links and/or said connecting links being provided with at least one rotatable knob “25” having two or more visually distinct marker faces “26” and “27”, said marker faces being turnable by said knob so that a selected and distinct face is viewable to the wearer of said article of jewelry in association with said link (the limitation “to indicate...to be remembered” is purely functional language and holds little patentable weight; the interpretation of a structural element by a wearer does not further define the structure of the element).

The difference between the claim and Newman is the claim recites, distinct indicators, and the knob being turnable while said bracelet is worn by a wearer. First, it should be noted that the definition of the word “distinct” does not necessarily mean that each indicator is different from the others. An equally valid definition of the word is “easy to perceive”. All of the elements “12” on links “11” are easy to perceive.

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Nevertheless, Mariano discloses a bracelet similar to that of Newman. In addition, Mariano further teaches that each link can have a distinct indicator. It would have been obvious to one of ordinary skill in the art, having the disclosures of Newman and Mariano before him at the time the invention was made, to modify the indicators of Newman to be distinct on each link, as in Mariano, to obtain distinct links. One would have been motivated to make such a combination because a change in ornamental design having no mechanical function is an aesthetic design consideration within the skill of the art. In re Seid, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).

Additionally, Ebara discloses an ornament used on rings, charms, pendants, and bracelets (amongst other items) with a rotatable knob (see Figures 27-28), similar to that of Newman. In addition, Ebara further teaches, that the knob is turnable while the bracelet is worn by a wearer. It would have been obvious to one of ordinary skill in the art, having the disclosures of Newman and Ebara before him at the time the invention was made, to modify the knob of Newman to use the knob of Ebara, to obtain a rotatable knob in an ornament. One would have been motivated to make such a combination because the ability to use many different ornaments, and to allow the user to change the face on a whim, would have been achieved, as taught by Ebara (col.8, ln.9-20).

As to claim 5, Newman discloses, wherein said indicators are selected from the group consisting of Roman numerals; Arabic numbers; and analog clock face with markers (the limitation "for the hour of the day" is purely functional and holds little patentable weight); Braille markings; and columns of stones with a different stone marking the hour of the day. Newman discloses an ornamental body portion "12" that can be interpreted as an analog clock

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face indicator, with each of the various features of design "12" being a marker. Furthermore, Marino teaches using Arabic numbers as an aesthetic design.

As to claim 9, Ebara teaches, wherein said at least one rotatable knob comprises four faces (see Figure 30), each face having a different colored stone thereon from the other stones on said knob (col.4, ln.1-5).

As to claim 12, Ebara teaches, wherein each of said at least one rotatable knob has four faces, each of which is provided with a colored gem. The elements "13" can be any of a number of gems.

As to claim 18, Newman discloses, further comprising a biasing mechanism comprising an axle "28" of square cross-section for said rotatable knob "25" and a resilient spring "30" bearing against a flat surface of said axle for ensuring that said at least one rotatable knob is maintained in place until manually moved into a new direction.

As to claim 23, Newman discloses, a bracelet (the limitations "for indicating...of the day" are intended use and hold little patentable weight), comprising: a series of primary links "11" connected to form a bracelet, each primary link comprising an analog watch face design "20", the series of primary links having sequential, hour of the day indicators "12", an indicator for each primary link (the limitations "for visually...are viewed" are purely functional and hold little patentable weight); and each primary link being further provided with at least one rotatable rosette "25" having two or more different colored faces "26" and "27", such that only one selected face, at any one time is viewable by the wearer (the limitations "to indicate...to be remembered" are purely functional and hold little patentable weight). Mariano teaches distinct

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indicators for each link (see the rejection of claim 1 above). Ebara teaches two or more different colored stones (see Figures 27-30).

As to claim 26, Ebara teaches, wherein said rotatable rosette "4G" (see Figures 29-30) has four distinct colored stones "13" (the limitations "to indicate...to be remembered" are purely functional and hold little patentable weight).

As to claim 27, Newman discloses, wherein said rosettes are held in place by a resilient spring leaf "30".

As to claim 29, the difference between the claim and Newman is the claim recites, wherein said primary links are made from precious metal. Although Newman does not explicitly disclose the material used, it is old and well known to use precious metals to make jewelry articles. Nevertheless, Ebara discloses an ornament similar to that of Newman. In addition, Ebara further teaches the use of precious metals. It would have been obvious to one of ordinary skill in the art, having the disclosures of Newman and Ebara before him at the time the invention was made, to use precious metals to make the article of Newman, as taught by Ebara, to obtain precious jewelry. One would have been motivated to make such a combination because the ability to increase value and to gain beneficial mechanical properties (col.3, ln.40-47), would have been achieved, as taught by Ebara. Furthermore, the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

As to claim 30, Ebara teaches, wherein said primary links are made from precious metal.

As to claim 31, Ebara teaches, wherein said primary links are made from precious metal.

As to claim 32, Newman discloses, an article of costume jewelry.

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As to claim 33, Newman discloses, an article of costume jewelry.

**Claims 7 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newman US3217514 in view of Ebara US5787731, and further in view of Mariano US2322461, and further in view of Warren US6260383.**

As to claim 7, Newman discloses, wherein said set of hour of the day indicators are ornamental designs "12" and said set of connecting links "11" (every other "11") are also provided with a second set of hour of the day indicators "12" and "20" in the form of an analog watch face. The difference between the claim and Newman is the claim recites, the ornamental designs are Roman numerals. Warren discloses a bracelet similar to that of Newman. In addition, Warren further teaches the use of Roman numerals at different positions along a bracelet, as ornamental designs. It would have been obvious to one of ordinary skill in the art, having the disclosures of Newman and Warren before him at the time the invention was made, to modify the designs of Newman to be Roman numerals, as in Warren, to obtain Roman numeral design features. One would have been motivated to make such a combination because a change in ornamental design having no mechanical function is an aesthetic design consideration within the skill of the art. In re Seid, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).

As to claim 25, Newman discloses, wherein said indicators "12" for said primary links "11" are further provided with ornamental designs (the limitations "to indicate...remembered" hold little patentable weight because they are purely functional). Warren teaches the designs can be Roman numerals.



**Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Newman US3217514 in view of Ebara US5787731, and further in view of Mariano US2322461, and further in view of Heyman US1734625.**

As to claim 28, Newman discloses, wherein said analog watch face design "20" and said indicators "12" are comprised of bodies. The difference between the claim and Newman, is the claim recites, the bodies are diamonds and different colored stones. Heyman discloses a linked bracelet similar to that of Newman. In addition, Heyman further teaches placing gemstones in the corners. It would have been obvious to one of ordinary skill in the art, having the disclosures of Newman and Heyman before him at the time the invention was made, to modify the corner elements "12" in Newman to be gemstones, as in Heyman, to obtain gemstone indicators. One would have been motivated to make such a combination because it is old and well known that adding gemstones increases value, and is also aesthetically pleasing to the eye.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 5, 7, 9, 12, 18, 23, and 25-33 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. US1672355 to Ullman discloses a finger ring.
2. US1792534 to Germain discloses an article of jewelry.
3. US2427257 to Campbell discloses a novelty ornament.
4. US3374949 to Hayden discloses a religious rosary.

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5. US3992901 to Parente discloses a necklace with beads.
6. US4393667 to Reinstein discloses jewelry articles.
7. US4400932 to Epstein discloses a modular jewelry link.
8. US5896757 to Kharloubian discloses an article of jewelry with a movable mounting.
9. US6223559 to Coleman discloses a medical identification charm bracelet.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y Ho whose telephone number is (703)305-4556. The examiner can normally be reached on M-F 10:00AM-6:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J Swann can be reached on (703)306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TYH

  
ROBERT J. SANDY  
PRIMARY EXAMINER